

COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

October 16, 2018

7:00 p.m. – Room 231

Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. **ROLL CALL**
2. **PUBLIC HEARING (possible action on):**
3. **PUBLIC HEARING DISCUSSION**
4. **PUBLIC COMMENT**
5. **ACCEPTANCE OF MINUTES:** September 18, 2018
6. **OLD BUSINESS:**
7. **NEW BUSINESS:** Plastic Bag Ban Ordinance (Non-Biodegradable)
8. **DISCUSSION ITEM:**
9. **ADJOURNMENT**

**Draft Meeting Minutes from
9/18/2018 Ordinance
Committee Public Hearing**

**City of Norwalk
Ordinance Committee
Regular Meeting
September 18, 2018**

Attendance: Eloisa Melendez, Chair; Tom Livingston, Doug Hempstead; Chris Yerinides; Beth Siegelbaum; Doug Stern

Staff: Attorney Brian Candela

1. Call To Order

Ms. Melendez called the meeting to order at 7:03 p.m.

2. Public Hearing

Discuss and vote on Chapter 12, Article I, Section 12-1 of the Norwalk City Code.

Ms. Melendez opened the public hearing at 7:03 p.m.

Ms. Melendez closed the public hearing at 7:04 p.m.

3. Public Hearing Discussion

Mr. Livingston indicated that discussions were held with Attorney Candela prior to the ordinance committee meeting concerning revisions to the ordinance. Revisions were made to simply the ordinance and ensure that it was consistent with Connecticut General Statutes Section 30-91.

Mr. Livingston moved to approve the amendments and send it for consideration for Common Council approval.

The motion passed with six (6) in favor and zero (0) opposed. The motion passed unanimously.

4. Public Comment

Tod Bryant – Morgan Avenue – stated that he spoke at the last meeting and was not included in the minutes. He provided an email with a copy of what he had spoken at the last meeting. He indicated that he would like the content of this email to be reflected in the September 4, 2018 and September 18, 2018 minutes.

Comments on Innovation district

Subject: Comments on Innovation district

From: Tod Bryant <tod@norwalkpreservation.org>

Date: 8/21/2018 5:19 PM

To: Eric Rasmussen <kerasmus@me.com>, Eric Rasmussen <tech@norwalkpreservation.org>, Daryn Reyman-Lock <daryn.reyman@gmail.com>, Marija Bryant <MarijaB@aol.com>, Lee Levey <llevey.architect@worldnet.att.net>, Suzanne Betts <shbetts@gmail.com>, Georgette blau <gblau@onlocationtours.com>, wendye pardue <wendye1@optonline.net>, Carolann Falasca <cafalasca@gmail.com>, Charles Harris <charris@harrisschmid.com>, "Randy Briggs" <randolph@briggs.net>

Directors,

Just wanted to let you know what I plan to say at the Ordinance Committee tonight in regard tot the proposed Innovation District. My remarks may or may not be in the following order.

1. We understand that the intent of this proposal is to incentivize certain kinds of beneficial development for the Wall Street Area, however we have some deep concerns about it.
2. I sit on the steering Committee of the 2018 POCD and that document, which is supposed to be a blueprint for development in Norwalk, is still in process. Why is this proposal being brought forth now, before the plan is finished? Wouldn't it be more effective to complete the city-wide plan and use the planning decisions in it for Wall Street as a basis for any incentives?
3. I believe that there is a federal program that Norwalk has qualified for that would provide similar incentives. Does this proposal take that program into account? it is not mentioned in the document.
4. Incentives are heavily weighted to new projects and provide nothing for the businesses that have worked so hard to maintain a presence on Wall Street. They have kept it alive against all odds for years and they should not be ignored.
5. Incentives for the rehabilitation of historic buildings are far less than those for new construction. They lack criteria, such as the Secretary of the Interior's Standards for Rehabilitation for work done on those buildings.

May I speak for NPT?

Tod

--
Tod Bryant
President
Norwalk Preservation Trust
Cell - 203-246-4743
Office - 203-853-7495

Rob Fahey – 66 Center Avenue – he owns Plumbing Works and was worried that contractors would be displaced due to the Innovation District due to zoning changes. He indicated that he wants there to be room for everybody and all businesses in the area.

5. Acceptance of Minutes

- a. On Page 4 - change conjunction to congestion
- b. On Page 5 - change Neiderlan to Neiderland and redetected to rejected
- c. On Page 9 - Insertion of Tod Bryant into the minutes next to Maria Bryant and include the content of the 8/21/18 email
- d. On Page 11 – remove “not the Redevelopment Agency”

6. Old Business

Ms. Melendez and Mr. Livingston recommended tabling a further discussion on the Innovation District until more information was obtained and more questions were answered by the Redevelopment Agency. Mr. Hempstead also indicated that he was looking for additional answers to questions and more information from the Redevelopment Agency as well.

Mr. Hempstead moved to table the Innovation District until the next meeting.

The motion passed with six (6) in favor and zero (0) opposed. The motion passed unanimously.

7. New Business

There was no new business discussed this evening.

8. Discussion Item

There was no discussion items this evening.

9. Adjournment

Ms. Melendez moved to adjourn

The motion passed with six (6) in favor and zero (0) opposed. The motion passed unanimously.

City of Norwalk
Ordinance Committee
Regular Meeting
Septembert 18, 2018

Plastic Bag Ban Ordinance (Non-Biodegradable)

USE OF CARRYOUT BAGS BY RETAIL ESTABLISHMENTS

§_____-1. – Purpose.

The purpose of this article is to preserve and protect the environment in the City of Norwalk and encourage the use of Reusable Carryout Bags by reducing the use of Carryout Bags made of plastic and prohibiting the use of Carryout Bags made of non-recyclable paper.

§_____-2. – Definitions.

As used in this article, the following terms shall have the meanings indicated:

CARRYOUT BAG

A bag of any material, commonly plastic or kraft paper, that is provided to a consumer at the point of sale to carry purchases out of the establishment. The term shall not include:

- A. Bags used by consumers inside a Retail Establishment to:
 - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
 - 2. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
 - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - 4. Segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or
 - 5. Contain unwrapped prepared foods or bakery goods.
- B. Newspaper bags, door-hanger bags, or laundry-dry cleaning or garment bags.
- C. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
- D. Bags of any type that customers bring to a Retail Establishment for their own use.

RETAIL ESTABLISHMENT

Any person, corporation, partnership, business, or other organization or group, however organized, that transfers merchandise, goods, or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer in exchange for payment. The term includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, clothing store, hardware store, hospital, pharmacy, liquor store, restaurant,

delicatessen, convenience store, food truck, sidewalk vendor, farmers' market, flea market, and any other retail store or vendor. The term shall not include the sale of goods at yard sales, tag sales, or other sales by residents at their home.

REUSABLE CARRYOUT BAG

A bag with handles that is specifically designed and manufactured for multiple reuse that (1) is made of (a) cloth, fiber, or other machine washable fabric, or (b) durable plastic that is at least 12.0 mils (thousandths of an inch) thick, and (2) does not contain lead, cadmium, or any other toxic material, as defined by applicable state and federal standards and regulations for packaging or reusable bags.

§ ____-3. – Restrictions on Carryout Bags.

- A. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of plastic, other than Reusable Carryout Bags, in the City of Norwalk.
- B. No Retail Establishment shall sell, provide, or distribute Carryout Bags made of paper in the City of Norwalk, unless such bags:
 - 1. Are 100% recyclable;
 - 2. Contain a minimum of 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content); and
 - 3. Conspicuously display the phrase “Reusable” and “Recyclable” on the outside of the bag and the percentage of post-consumer recycled content.

§ ____-4. – Charges for Carryout Bags.

- A. Any Retail Establishment that elects to provide Carryout Bags made of paper consistent with Section 3.B. of this article shall charge the consumer at the point of purchase \$.10 for each such bag.
- B. The charge imposed by a Retail Establishment as provided in Paragraph A of this Section shall be retained solely by the Retail Establishment.
- C. All Retail Establishments shall indicate on the consumer transaction receipt the number of Carryout Bags provided and the total amount of charge imposed. It shall be a violation of this article for a Retail Establishment to fail to separately itemize the charge upon a consumer's purchase of such bag.
- D. No Retail Establishment shall rebate or otherwise reimburse a customer for any portion of the charge provided in Paragraph A of this Section.
- E. Nothing in this article shall prohibit a Retail Establishment from providing Reusable Carryout Bags for no or nominal cost or encouraging and providing

incentives for the use of Reusable Carryout Bags, including credits or rebates for customers that bring their own Reusable Carryout Bags for the purpose of carrying purchases out of the Retail Establishment.

- F. Nothing in this Article shall prohibit a consumer from using bags or containers of any type that they bring to a Retail Establishment or from carrying away goods that are not placed in bags.
- G. It shall be presumed that all Carryout Bags sold or used by a Retail Establishment are subject to the charge provided in Paragraph A of this Section until the contrary is established. The burden of proving that such Carryout Bags are not subject to the charge hereunder shall be upon the Retail Establishment so claiming.

§ ____-5. – **Exceptions.**

- A. The charge reflected in Section 4 of this article shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.
- B. The charge reflected in Section 4 of this article shall not apply to the use of Carryout Bags to carry items purchased pursuant to the Supplemental Nutritional Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or a similar governmental food assistance program.

§ ____-6. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the [Department of Public Works] or its designee.
- B. Upon determination that a violation has occurred, the Retail Establishment shall be liable for the following:
 - 1. Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Retail Establishment. No penalty shall be imposed for the initial violation;
 - 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and
 - 3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).

§ ____-7. – **Severability.**

If any section, clause, sentence or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such adjudication shall not affect the validity or enforceability of any other provision hereof, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ ____-8. — **Effective date.**

This article shall become effective six months following its adoption by the Common Council in order to allow Retail Establishments time to dispose of their existing inventory of Carryout Bags made of plastic and convert to alternative packaging materials compliant with this article.

Greenwich

ARTICLE 4. - REUSABLE CHECKOUT BAG ORDINANCE.

Sec. 9-31. - Purpose.

This Ordinance [Article] is intended to reduce bag waste to protect and preserve the environment of Greenwich for the benefit and welfare of its residents by encouraging the use of reusable checkout bags, by prohibiting plastic checkout bags, prohibiting paper checkout bags that are not one hundred percent (100%) recyclable.

(RTM 3/12/2018.)

Sec. 9-32. - Definitions.

The following words, terms and phrases, when used in this Ordinance [Article], shall have the meanings ascribed to them as follows:

- (1) *Business establishment* means any person, business or non-profit entity that sells or provides merchandise, goods or materials, including, without limitation, clothing, food, or personal items of any kind, directly to a consumer, and includes, by way of example and not limitation, any grocery store, grocery delivery service, department store, hardware store, pharmacy, liquor store, restaurant, catering truck, convenience store, hospital, library, school, including temporary vendors at farmers' markets, street fairs and school or Town sponsored events and facilities.
- (2) *Checkout bag* means a carryout bag used by consumers at checkout for the purpose of removing products purchased from or provided by a business establishment. Checkout bag does not mean product bag.
- (3) *Recycled paper checkout bag* means a bag that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content, is one hundred percent (100%) recyclable, and has printed in a highly visible manner on the bag the words "Reusable" and "Recyclable", the name and location of the manufacturer, and the percentage of post-consumer recycled content.
- (4) *Product bag* means a single-use plastic or paper non-checkout bag to include, but not limited to, newspaper bags, door-hanger bags, laundry dry cleaning bags, bags sold in packages containing multiple bags intended for use as garbage, pet waste bags, yard waste bags, and bags that are used by consumers inside stores to: Package bulk items such as fruit, vegetables, mushrooms, nuts, grains; candy; contain or wrap foods, meat, or fish, whether packaged or not; contain or wrap flowers, potted plants or other items where dampness may be a problem; contain unwrapped prepared foods or bakery goods; contain pharmacy prescriptions; or safeguard public health during the transportation of hospital waste.
- (5) *Reusable checkout bag* means a bag that is provided by a business establishment, that is designed and manufactured for multiple reuses and meets all of the following requirements:
 - a. Can be cleaned or disinfected;
 - b. Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health;
 - c. Has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this Ordinance [Article] means the capacity of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet, or if it is made from plastic, has a minimum thickness of twelve (12) mil.

- (6) *Plastic checkout bag* means a bag that is less than twelve (12) mil thick that is made of plastic derived from fossil fuels or from a genetically modified organism bio-based source (such as corn or other plant sources), which is provided at checkout to transport items purchased from or provided by a business establishment.

(RTM 3/12/2018.)

Sec. 9-33. - Prohibition on the distribution of a plastic checkout bag.

No business establishment shall provide or sell a plastic checkout bag to a consumer in the Town of Greenwich.

No business establishment shall provide or sell a plastic checkout bag at any Town facility, Town-managed concession, Town-sponsored or Town-permitted event unless otherwise permitted by the Conservation Commission.

(RTM 3/12/2018.)

Sec. 9-34. - Prohibition on the distribution of a paper checkout bag.

No business establishment shall provide or sell a paper checkout bag that does not meet or exceed the specifications of a recycled paper checkout bag as defined in subsection 9-32(3) above.

(RTM 3/12/2018.)

Sec. 9-35. - Acceptable checkout bags.

- (1) A business establishment may provide consumers with a recycled paper checkout bag.
- (2) A business establishment may sell consumers a reusable checkout bag, but for not less than the cost of a recycled paper checkout bag.
- (3) Nothing in this Ordinance [Article] shall prohibit a business establishment from encouraging and providing incentives for the use of reusable checkout bags. A business establishment may use credits or rebates for consumers that bring their own checkout bags for the purpose of carrying away goods.
- (4) Nothing in this Ordinance [Article] shall prohibit consumers from using bags or containers, of any type, at the point of checkout that they have brought to a business establishment for the purpose of carrying away goods.

(RTM 3/12/2018.)

Sec. 9-36. - Violations, penalties and enforcement.

Violation of any of the requirements of this Ordinance [Article] shall be subject to the penalties set forth in this Section.

If the Conservation Commission or its designee determines that a violation of this Ordinance [Article] has occurred, the Conservation Commission or its designee shall issue a written warning notice to the business establishment for the initial violation.

If the Conservation Commission or its designee determines that an additional violation of this Ordinance [Article] has occurred after a written warning notice has been issued for an initial violation, the

Conservation Commission or its designee shall issue a notice of infraction and shall impose a penalty against the business establishment.

The penalty imposed by the Conservation Commission or its designee shall be as follows for each violation that occurs after the issuance of the written warning notice for an initial violation:

- (a) One hundred fifty (\$150.00) dollars for the second violation;
- (b) Two hundred fifty (\$250.00) dollars for the third violation and each subsequent violation.
- (c) If the business establishment who is sent notice of an infraction pursuant this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by such municipality. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such business establishment or other business establishment making the payment. Any business establishment who does not deliver or mail written demand for a hearing within ten (10) days of the date of the first notice provided for in subsection (c) of this Section shall be deemed to have admitted liability, and the designated municipal official shall certify such business establishment's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in this section.
- (d) Any business establishment who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of Section 52-180 [of the Connecticut General Statutes] and evidence of the facts contained therein. The presence of the issuing official shall be required at the hearing if such business establishment so requests. A business establishment wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such business establishment fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability. The hearing officer may accept from such business establishment copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such business establishment is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If he determines that the business establishment is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the business establishment is liable for the violation, he shall forthwith enter and assess the penalties, costs or fees against such business establishment as provided in this section.
- (e) If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the business establishment found liable and shall file, not less than thirty (30) days or more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars (48.00). The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same business establishment may be accrued and filed as one (1) record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars (\$8.00), against such business establishment in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such business establishment.

A business establishment against whom a penalty has been entered pursuant to this Ordinance [Article] is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in the amount equal to the entry fee for a small claims case pursuant to Connecticut General Statutes section 52-259, at the Superior Court facility designated by the Chief Court Administrator, which shall entitle such business establishment to a hearing in accordance with the rules of the judges of the Superior Court.

(RTM 3/12/2018.)

Sec. 9-37. - Effective date.

This Ordinance [Article] shall become effective six (6) months after its approval by the RTM to allow business establishments time to work through their existing inventory of plastic checkout bags and convert to alternative checkout bag materials that comply with this Ordinance [Article].

(RTM 3/12/2018.)

Sec. 9-38. - Expiration.

This Ordinance [Article] shall cease to be effective on September 12, 2021, unless sooner extended by action of the Representative Town Meeting.

(RTM 3/12/2018.)

LEGAL NOTICE TO BE PUBLISHED WESTPORT NEWS, Friday, September 5, 2008:

At the meeting of the Representative Town Meeting held Tuesday September 2, 2008, the following ordinance was amended as follows:

RESOLVED: That upon the request of four RTM members, an ordinance that bans plastic checkout bags used by retail stores and other organizations selling products to the public is hereby approved. *(Second reading. Full text available from the Town Clerk's Office)*

ARTICLE ____

RETAIL CHECKOUT BAGS

Division 1. In General

§ _____. Purpose

The intent of this ordinance is to improve the environment in Westport by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

§ _____. Justification

Non-biodegradable plastic bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

Division 2. Checkout Bags

§ _____. Definitions

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section:

- a) *Checkout bag* means a carryout bag that is provided to a customer at the point of sale. The term "checkout bag" does not include plastic produce bags or plastic bags measuring 28" by 36" or larger in size.
- b) *Plastic produce bag* means a flexible container made of very thin plastic material with a single opening that is used to transport produce, meats or other items selected by customers to the point of sale.
- c) *Retail sales* means the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets and restaurants. The term "retail sales" does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by non-profit organizations.
- d) *Recyclable paper bag* means a paper bag that should have the following characteristics: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words "Reusable" and "Recyclable" on the outside of the bag.

- e) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

§ _____. **Restriction on Checkout Bags**

A. Any person engaged in retail sales shall provide only reusable bags and/or recyclable paper bags as checkout bags to customers.

B. Nothing in this section shall preclude persons engaged in retail sales from making reusable bags available for sale to customers.

§ _____. **Operative Date**

This ordinance shall become operative six months following its effective date to allow retail establishments to dispose of their existing inventory of plastic checkout bags and convert to alternative packaging materials.

§ _____. **Notification; Issuance of Citations.**

Upon notification that a violation exists, the Conservation Department will investigate and verify the non-compliance. The Conservation Department is authorized to enforce the ordinance as follows:

A. Notification of Violation.

The Conservation Department shall provide written notice to any person who violates this ordinance. The notice of violation shall state the violation and the date by which said violation shall be remedied. Upon the failure to remedy the violation or commence corrective action to the satisfaction of the Conservation Department within the time specified in the notice, the Conservation Department shall issue a citation as provided for in Subsection B hereof.

Repeat offenders shall be issued additional citations without first receiving a notice of violation. Additional citations shall be issued no more frequently than ninety (90) days following a prior citation.

B. Citation Issuance.

The Conservation Department shall issue a citation when a violation persists beyond the date by which the Conservation Department required that the violation be remedied or beyond the date that corrective action be commenced.

The citation shall state:

- (i) A description of the violation.
- (ii) The initial fine of \$150.00 plus such other penalties, costs and/or fees due for each violation.
- (iii) That after four (4) days from the date of the citation, each day thereafter that the violator has not sent notification of compliance to the Conservation Department shall constitute a separate violation and shall be subject to an additional \$150.00 fine.
- (iv) That the uncontested payment of such fine(s), penalties, costs and/or fees shall be made within (10) days of the date of the citation.
- (v) That such person may contest the liability before a citation hearing officer by delivering in person or by mail within ten (10) days of the date of the citation a written demand for a hearing.
- (vi) That if such a hearing is not demanded, it shall be deemed an admission of liability and an assessment and judgment shall be entered against the person, and that such judgment may issue without further notice.

Any notice of violation or citation issued hereunder shall be sent to the person named in the citation by certified mail, return receipt requested and simultaneously by regular United States Postal Service mail.

Once a written demand for a hearing has been received by the Conservation Department, no additional citations shall be issued for the violation, nor shall daily fines be imposed until after the conclusion of the hearing procedure as set forth in Section _____ hereof.

§ _____. Amount of Fine; Continuing Violations.

- A. The fine for each violation shall be \$150.00, and shall be payable to the Town.
- B. Each occurrence of a violation, and each day that such violation continues, shall constitute a separate violation and shall be subject to a separate fine and may be cited as such.
- C. The person to whom a citation has been issued shall be responsible for reporting, in writing, subsequent compliance to the Conservation Department. Until such time, the fine(s) shall continue to be imposed on a daily basis.

§ _____. Hearing Procedure for Citations.

- A. The First Selectman shall appoint one or more hearing officers, other than any employee of the Town, to conduct the hearings resulting from violations of this ordinance. Any assessment by a hearing officer shall be entered as a judgment against the violator.
- B. A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the hearing notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. An original or certified copy of the citation issued by the Conservation Department shall be filed and retained by the Town and shall be deemed to be a business record and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Conservation Department employee who issued the citation shall be required at the hearing. A designated Town employee other than the hearing officer may present evidence on behalf of the Town. A person wishing to contest liability shall appear at the hearing and may present evidence. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default upon a finding of proper notice and liability under the ordinance.
- C. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he/she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his/her decision at the end of the hearing. If the hearing officer determines that the person is not liable, he/she shall dismiss the matter and enter his/her determination, in writing, accordingly. If the hearing officer determines that the person who received the citation is liable for the violation, the hearing officer shall then enter and assess the fines, penalties, costs or fees against the person as provided by this Article.
- D. If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such

mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the geographical area in which the Town is located, together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, all assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of the hearing officer's record of assessment, as well as court costs, against such person in favor of the Town. The hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may be issued without further notice to such person.

- E. A person against whom an assessment has been entered pursuant to this Article is entitled to judicial review by way of appeal in accordance with C.G.S. Section 7-152c(g).

Patricia H. Strauss
Town Clerk

PROPOSED ORDINANCE NO. _____
CONCERNING NON-BIODEGRADABLE DISPOSABLE
CARRYOUT BAGS

WHEREAS, non-biodegradable disposable carryout bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter; and

WHEREAS, the physical breakdown of non-biodegradable disposable carryout bags results in micro plastics that enter the food chain and ultimately accumulate in the human body leading to adverse health effects; and

WHEREAS, non-biodegradable plastic carryout bags are not considered recyclable; and

WHEREAS, it is beneficial to the land and aquatic environment and to human health to prohibit the use of non-biodegradable disposable carryout bags and encourage the use of reusable carryout bags.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF STAMFORD THAT:

to protect the land and the aquatic environment and human health in the City of Stamford, Chapter _____, Stamford Disposable Carryout Bag Ordinance, prohibiting the use of non-biodegradable disposable carryout bags is hereby adopted:

Sec. _____-1. – Purpose

The intent of this ordinance is to improve the environment in the City of Stamford by prohibiting the use of disposable carryout bags made of plastic and further prohibiting the use of disposable carryout bags made of non-recyclable paper, thereby encouraging the use of reusable carryout bags and deterring the use of 100% recyclable carryout paper bags for the retail sale of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

Sec. _____-2. – Justification

Non-biodegradable bags often are discarded into the environment and end up polluting our waterways, clogging sewers, endangering marine life and causing unsightly litter. These bags last hundreds of years in landfills and are a potential source of harmful chemicals when they do break down.

Sec. _____-3. – Definitions

For the purposes of this act, the term:

A. "Disposable carryout bag" means a bag of any material, commonly plastic or kraft paper, which is provided to a consumer at the point of sale to carry purchases out of the store. The term "disposable carryout bag" shall not include:

1. Bags used by consumers inside stores to:

- i. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
- ii. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
- iii. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
- iv. Segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag; or
- v. Contain unwrapped prepared foods or bakery goods;

2. Newspaper bags, door-hanger bags, laundry-dry cleaning or garment bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

3. Bags of any type that customers bring to a retail establishment for their own use; or

4. Plastic liners that are permanently affixed, or designed and intended to be permanently affixed, to the inside of a particular bag.

B. "Retail establishment" shall mean any retail store, food truck, sidewalk vendor, farmers' market, flea market and/or restaurant. The term "retail store" does not include yard sales, tag sales, and/or other sales by residents at their home.

C. "Retail sales" shall mean the transfer to a customer of goods in exchange for payment occurring in retail establishments. The term "retail sales" does not include the sale of goods at yard sales, tag sales, other sales by residents at their home, and/or sales by nonprofit organizations.

D. "Reusable carryout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber, other machine washable fabric, or durable plastic that is at least 2.25 mils thick.

Sec. ____-4. – Restrictions and Requirements for Disposable Carryout Bags Made Available to Customers by Retail Establishments.

A. Disposable carryout bags made of plastic shall not be sold or distributed by a retail establishment in the City of Stamford.

B. Disposable carryout bags made of paper shall:

1. Be 100% recyclable;
2. Contain a minimum of 40% post-consumer recycled content; and
3. Conspicuously Display the phrase "Please Recycle This Bag", or a substantially similar phrase.

Sec. ____-5. – Establishment of Charge.

- A. Any person and/or retail establishment engaged in retail sales that elects to lawfully provide disposable carryout bags made of paper consistent with Section 4(B) of this Chapter shall charge the consumer at the point of purchase \$.10 for each disposable carryout bag made of paper.
- B. The charge imposed by any person and/or retail establishment as reflected in Paragraph A of this Section shall be retained solely by the person and/or retail establishment.
- C. All retail establishments shall indicate on the consumer transaction receipt the number of disposable carryout bags provided and the total amount of charge imposed. It shall be a violation of this Chapter for the retail establishment to fail to separately itemize the charge upon a customer's purchase of such bag.

Sec. ____-6. – Exemptions.

- A. The charge reflected in Section 5 of this Chapter shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.
- B. The charge reflected in Section 5 of this Chapter shall not apply to any retail sale or use of disposable carryout bags that are used to carry items purchased pursuant to the Supplemental Nutritional Assistance Program or a similar governmental assistance program.
- C. It shall be presumed that disposable carryout bags sold or used by retail establishments are subject to the charge imposed under Section 5 of this Chapter until the contrary is established. The burden of proving that such carryout bags are not chargeable hereunder shall be upon the person so claiming.

Sec. ____-7. – Operative date.

This ordinance shall become operative six months following its effective date to allow retail establishments to dispose of their existing inventory of plastic carryout bags and convert to alternative packaging materials compliant with this ordinance.

Sec. ____-8. – Enforcement and penalties for violation.

- A. This Article shall be enforced by the Civil Citation process as set forth in Section 97 of the Code of Ordinances..
- B. If a Civil Citation Officer determines that any violation has occurred, the person and/or retail establishment shall be liable for the following:
 - 1. Upon the 1st violation, written warning notice that a violation has occurred shall be issued to the person and/or retail establishment. No penalty shall be imposed for the 1st violation.
 - 2. Upon subsequent violations of any kind, the Civil Citation Officer shall impose a penalty of \$250 on the person and/or retail establishment.
- C. No more than one penalty shall be imposed upon a person and/or retail establishment within a 7-day period.
- D. Revenues collected through citations for violation of this act shall be used solely for enforcement costs, including hiring inspectors and other staff, and administrative costs associated with enforcement of this act.

Sec. ____-9. – Severability.

It is the intention of the Board of Representatives that each separate provision of this Chapter shall be deemed independent of all of the provisions herein, and it is further the intention of the Board of Representatives that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.